

**UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
SPARTANBURG DIVISION**

JANE DOES 1-9,

Plaintiffs,

vs.

COLLINS MURPHY, LIMESTONE
COLLEGE, MG FREESITES, LTD., d/b/a
PORNHUB.COM, and HAMMY MEDIA,
LTD. d/b/a XHAMSTER.COM,

Defendants.

Case No.: 7:20-cv-00947

**HAMMY MEDIA LTD.'S ANSWER, AFFIRMATIVE DEFENSES,
AND JURY TRIAL DEMAND**

Defendant Hammy Media, Ltd. d/b/a XHamster.com (“HML”), by and through its undersigned counsel, for its Answer to the Fourth Amended Complaint of Plaintiffs herein states as follows:

ANSWER

Introduction

1. This paragraph contains an introductory statement not aimed at HML and, as such, no response is necessary. To the extent that a response is required, HML states that it is without sufficient information to admit or deny the allegations contained in this paragraph.

2. This paragraph contains an introductory statement not aimed at HML and, as such, no response is necessary. To the extent that a response is required, HML states that it is without sufficient information to admit or deny the allegations contained in this paragraph.

3. Denied.

Parties and Venue

4. HML is without sufficient information to admit or deny the allegations contained in this paragraph.

5. HML is without sufficient information to admit or deny the allegations contained in this paragraph.

6. HML is without sufficient information to admit or deny the allegations contained in this paragraph.

7. HML is without sufficient information to admit or deny the allegations contained in this paragraph.

8. HML is without sufficient information to admit or deny the allegations contained in this paragraph.

9. HML is without sufficient information to admit or deny the allegations contained in this paragraph.

10. HML is without sufficient information to admit or deny the allegations contained in this paragraph.

11. HML is without sufficient information to admit or deny the allegations contained in this paragraph.

12. HML is without sufficient information to admit or deny the allegations contained in this paragraph.

13. HML is without sufficient information to admit or deny the allegations contained in this paragraph.

14. HML is without sufficient information to admit or deny the allegations contained in this paragraph.

15. This paragraph contains a conclusion of law for which no response is required. To the extent that a response is required, HML is without sufficient information to admit or deny the allegations contained in this paragraph.

16. HML is without sufficient information to admit or deny the allegations contained in this paragraph.

17. HML is without sufficient information to admit or deny the allegations contained in this paragraph.

18. HML is without sufficient information to admit or deny the allegations contained in this paragraph.

19. HML admits that it is a Cypriot company headquartered in Cyprus.¹ HML denies the remaining allegations contained in this paragraph. In further answering, HML states that it does not now have, and has never had, an office in Texas.

20. Denied.

21. HML admits that it has received notice that content had been posted to the XHamster website without HML's knowledge or consent, and in violation of XHamster's terms

¹ HML asserts that it is not subject to personal jurisdiction in South Carolina or the United States. (Indeed, another Federal District Court previously found that Hammy's website, XHamster.com, was not aimed at any specific state within the United States and, therefore, Hammy was not subject to personal jurisdiction there. *See Fraserside IP L.L.C. v. Hammy Media, Ltd.*, 2012 U.S. Dist. LEXIS 5359, *25 (N.D. Iowa Jan. 17, 2012) ("Although xHamster's website is both commercial and interactive, as an Iowa district court noted in a case presenting similar facts, such a website "is arguably no more directed at Iowa than at Uzbekistan."). HML has raised the lack of personal jurisdiction in its Motion for Judgment on the Pleadings, filed contemporaneously with this Answer. HML flags this issue for the Court now, in its first substantive filing, lest there be a suggestion that HML has inadvertently waived its right to object to personal jurisdiction.

of service, that included persons who had not consented to being filmed. In answering further, HML states that when it received such notice, it removed the content in question.

22. Denied.

23. Denied.

24. Denied.

Facts

(As to Defendant Limestone and Defendant Murphy)

25. HML incorporates by reference each of its previous answers as if set forth herein.

26. This paragraph contains allegations not aimed at HML and, as such, no response is necessary. To the extent that a response is required, HML states that it is without sufficient information to admit or deny the allegations contained in this paragraph.

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Facts
(As to Defendant Pornhub and Defendant HML)

45. Denied.

46. Denied.

47. Denied.

48. Denied.

49. Denied.

50. HML admits that it has received notice that content had been posted to the XHamster website without HML's knowledge or consent, and in violation of XHamster's terms of service, that included persons who had not consented to being filmed. In answering further, HML states that when it received such notice, it removed the content in question. To the extent not specifically admitted, HML denies the allegations of this paragraph.

51. Denied.

52. Denied.

53. Denied.

54. Denied.

55. Denied.

56. Denied.

57. Denied.

58. Denied.

59. Denied.

FIRST CAUSE OF ACTION AGAINST DEFENDANTS
(Invasion of Privacy - Wrongful Intrusion upon Private Affairs)

60. HML incorporates by reference and reasserts all previous responses and denials contained in this Answer as if fully set forth herein.

61. This paragraph contains allegations not aimed at HML and, as such, no response is necessary. To the extent that a response is required, HML states that it is without sufficient information to admit or deny the allegations contained in this paragraph.

62. This paragraph contains allegations not aimed at HML and, as such, no response is necessary. To the extent that a response is required, HML states that it is without sufficient information to admit or deny the allegations

63. This paragraph contains conclusions of law and allegations not aimed at HML and, as such, no response is necessary. To the extent that a response is required, HML states that it is without sufficient information to admit or deny the allegations contained in this paragraph. To the extent that a response is required to the allegations of law, HML denies the same.

64. This paragraph contains conclusions of law and allegations not aimed at HML and, as such, no response is necessary. To the extent that a response is required, HML states that it is without sufficient information to admit or deny the allegations contained in this paragraph. To the extent that a response is required to the allegations of law, HML denies the same.

65. This paragraph contains allegations not aimed at HML and, as such, no response is necessary. To the extent that a response is required, HML states that it is without sufficient information to admit or deny the allegations

66. Denied.

67. Denied.

68. Denied.

69. Denied.

FOR A SECOND CAUSE OF ACTION AGAINST DEFENDANTS
(Invasion of Privacy - Wrongful Publicizing of Private)

70. HML incorporates by reference and reasserts all previous responses and denials contained in this Answer as if fully set forth herein.

71. Denied.

72. Denied.

73. Denied.

74. This paragraph contains conclusions of law and, as such, no response is necessary.

To the extent that a response is required to the allegations of law, HML denies the same.

75. This paragraph contains conclusions of law and, as such, no response is necessary.

To the extent that a response is required to the allegations of law, HML denies the same.

76. Denied.

77. Denied.

78. Denied.

FOR A THIRD CAUSE OF ACTION AGAINST DEFENDANTS
(Invasion of Privacy - Wrongful Appropriation of Personality)

79. HML incorporates by reference and reasserts all previous responses and denials contained in this Answer as if fully set forth herein.

80. Denied.

81. Denied.

82. This paragraph contains conclusions of law and, as such, no response is necessary.

To the extent that a response is required to the allegations of law, HML denies the same.

83. This paragraph contains conclusions of law and, as such, no response is necessary.

To the extent that a response is required to the allegations of law, HML denies the same.

84. Denied.

85. Denied.

86. Denied.

FOR A FOURTH CAUSE OF ACTION AGAINST DEFENDANTS
(Intentional Infliction of Emotional Distress)

87. HML incorporates by reference and reasserts all previous responses and denials contained in this Answer as if fully set forth herein.

88. Denied.

89. Denied.

90. Denied.

91. Denied.

92. Denied.

93. Denied.

FOR A FIFTH CAUSE OF ACTION AGAINST DEFENDANTS
(Negligent Hiring - Defendant Limestone)

94. HML incorporates by reference and reasserts all previous responses and denials contained in this Answer as if fully set forth herein.

95. This paragraph contains allegations not aimed at HML and, as such, no response is necessary. To the extent that a response is required, HML states that it is without sufficient information to admit or deny the allegations

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FOR A SIXTH CAUSE OF ACTION AGAINST DEFENDANTS
(Negligent Supervision - Defendant Limestone)

100. HML incorporates by reference and reasserts all previous responses and denials contained in this Answer as if fully set forth herein.

101. HML incorporates by reference and reasserts all previous responses and denials contained in this Answer as if fully set forth herein.

102. This paragraph contains allegations not aimed at HML and, as such, no response is necessary. To the extent that a response is required, HML states that it is without sufficient information to admit or deny the allegations

103. This paragraph contains allegations not aimed at HML and, as such, no response is necessary. To the extent that a response is required, HML states that it is without sufficient information to admit or deny the allegations

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108. This paragraph contains allegations not aimed at HML and, as such, no response is necessary. To the extent that a response is required, HML states that it is without sufficient information to admit or deny the allegations

FOR A SEVENTH CAUSE OF ACTION AGAINST DEFENDANTS
(Negligent Monitoring- Defendant Pornhub and Defendant xHamster)

109. HML incorporates by reference and reasserts all previous responses and denials contained in this Answer as if fully set forth herein.

110. HML admits that it operates an adult website.

111. HML admits that it has received notice that content had been posted to the XHamster website without HML's knowledge or consent, and in violation of XHamster's terms of service, that included persons who had not consented to being filmed. In answering further, HML states that when it received such notice, it removed the content in question.

112. Denied.

113. Denied.

114. Denied.

115. Denied.

FOR A EIGHTH CAUSE OF ACTION AGAINST DEFENDANTS
(False Light - Defendant Pornhub and Defendant xHamster)

116. HML incorporates by reference and reasserts all previous responses and denials contained in this Answer as if fully set forth herein.

117. HML admits that it operates an adult website.

118. HML does not know the identity of the Plaintiff and, as such, is without sufficient knowledge to admit or deny the allegations of this paragraph.

119. Denied.

120. Assuming that this paragraph was intended to be a continuation of paragraph 119, Denied.

121. HML is without sufficient knowledge to admit or deny the allegations of this paragraph.

122. Denied.

123. Denied.

FOR A NINTH CAUSE OF ACTION AGAINST THE DEFENDANTS
(Civil Conspiracy- against Defendant Murphy and Defendant Pornhub)

124. HML incorporates by reference and reasserts all previous responses and denials contained in this Answer as if fully set forth herein.

125. This paragraph contains allegations not aimed at HML and, as such, no response is necessary. To the extent that a response is required, HML states that it is without sufficient information to admit or deny the allegations

126. This paragraph contains allegations not aimed at HML and, as such, no response is necessary. To the extent that a response is required, HML states that it is without sufficient information to admit or deny the allegations

127. This paragraph contains allegations not aimed at HML and, as such, no response is necessary. To the extent that a response is required, HML states that it is without sufficient information to admit or deny the allegations

FOR A TENTH CAUSE OF ACTION AGAINST THE DEFENDANTS
(Civil Conspiracy- against Defendant Murphy and Defendant HML)

128. HML incorporates by reference and reasserts all previous responses and denials contained in this Answer as if fully set forth herein.

129. Denied.

130. Denied.

131. Denied.

FOR AN ELEVENTH CAUSE OF ACTION AGAINST THE DEFENDANT
(CONDUCTING THE AFFAIRS OF THE ENTERPRISE THROUGH A PATTERN OF
RACKETEERING ACTIVITY - 18 U.S.C. § 1962(c) and 1964(c) against
Defendant Murphy and Defendant HML)

132. HML incorporates by reference and reasserts all previous responses and denials contained in this Answer as if fully set forth herein.

133. This paragraph contains only a conclusion of law for which no response is required. To the extent that an answer is required, Defendants deny the allegations of this paragraph.

134. Denied.

135. Denied.

136. Denied.

137. Denied.

138. Denied.

139. Denied.

140. Denied.

141. Denied.

142. Denied.

143. Denied.

144. Denied.

145. Denied.

146. Denied.

147. Denied.

148. Denied.

149. Denied.

150. Denied.

151. Denied.

152. Denied.

Damages

153. Denied.

Affirmative Defenses

1. This Court does not have personal jurisdiction over HML and, as such, cannot adjudicate the claims against it consistent with the Due Process Clause of the United States Constitution.

2. The allegations and claims in the Fourth Amended Complaint fail, in whole or in part, to state a claim upon which relief may be granted.

3. The allegations and claims in the Fourth Amended Complaint fail, in whole or in part, as being outside of the statute of limitations.

4. The allegations and claims in the Fourth Amended Complaint fail as they are barred in their entirety by Section 230 of the Communications Decency Act.

5. The allegations and claims in the Fourth Amended Complaint fail, in whole or in part, because HML was not the proximate cause of any of Plaintiff's damages.

6. The allegations and claims in the Fourth Amended Complaint fail, in whole or in part, as the damages alleged by Plaintiff are the result of the actions of others.

7. The allegations and claims in the Fourth Amended Complaint fail, in whole or in part, because HML did not owe a duty of care of the Plaintiff.

8. The allegations and claims in the Fourth Amended Complaint for Civil Conspiracy fail inasmuch as there was no common design or agreement as between the Defendants.

9. The allegations and claims in the Fourth Amended Complaint arising under the Civil RICO statute fail inasmuch as no enterprise existed between the Defendants.

10. The allegations and claims in the Fourth Amended Complaint arising under the Civil RICO statute fail inasmuch as there was no pattern of racketeering activities.

11. The allegations and claims in the Fourth Amended Complaint arising under the Civil RICO statute fail inasmuch as the acts complained of did not have an effect on interstate commerce.

HML has not knowingly or intentionally waived any applicable affirmative defenses and reserves the right to assert and rely on such other applicable affirmative defenses as may become available or apparent upon discovery of further information concerning Plaintiff's claims.

Prayer for Relief

WHEREFORE, HML prays that the Court award the following relief:

- A. That judgment enter for HML and against Plaintiff on each of the Counts of the Fourth Amended Complaint;
- B. That the Court dismiss Plaintiff's Fourth Amended Complaint in its entirety; and
- C. That the Court award HML such other relief the Court deems to be just.

Defendant Demands a Trial by Jury on All Claims so Triable

Respectfully Submitted,

/s/ Hannah Rogers Metcalfe

Hannah Rogers Metcalfe, Fed ID. 9943
Metcalfe & Atkinson, LLC
1395 South Church Street
Greenville, South Carolina 29605
(864) 214-2319

Evan Fray-Witzer (*pro hac vice*)
CIAMPA FRAY-WITZER, LLP
20 Park Plaza, Suite 505
Boston, Massachusetts 02116
Telephone: 617-426-0000
Evan@CFWLegal.com

Valentin D. Gurvits (*pro hac vice*)
Frank Scardino (*pro hac vice*)
BOSTON LAW GROUP, PC
825 Beacon Street, Suite 20
Newton Centre, Massachusetts 02459
Telephone: 617-928-1804
vgurvits@bostonlawgroup.com
frank@bostonlawgroup.com

Attorneys for Defendant Hammy Media LTD

March 29, 2022
Greenville, South Carolina